IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 09TH DAY OF FEBRUARY 2022

THE HON'BLE MR. JUSTICE P. VELMURUGAN

O.P. No. 269 of 2004
and
A.No. 4976 of 2021

O.P. No. 269 of 2004 :-

In the matter of Indian Succession Act, 1925

And

In the matter of the Goods of Andrew Xavier Packiam – Deceased.

1. Joseph Christian Krishnaraj,
   S/o. Late. Narasimhulu Naidu,
   Old No.2, New No.4,
   Nineth Trust Cross Street,
   Mandavelipakkam,
   Madras – 600 028.

2. J.M. Patricia,
   W/o. Late. Arulandu Santiago,
   Old No.2, New No.4,
   Nineth Trust Cross Street,
   Mandavelipakkam,
   Madras – 600 028.

3. Angela
   W/o. Late. Leo Mathew,
   Old No.2, New No.4,
   Nineth Trust Cross Street,
   Mandavelipakkam,
   Madras – 600 028. ... Petitioners

Original Petition praying that this Hon'ble Court be pleased to praying that the Letters of administration to the property and credits of the deceased to have effect through out the State of Tamil Nadu may be granted to them.

A.No. 4976 of 2021 :-

1. Mr. Kolli Venkata Mohan Rao,
   No 49-55-8, Vidyath Nagar,
   Vishakhapatnam – 533 024.

2. Kolli Murali Krishna,
   No.49-55/8. Vidhyath Nagar,
   Vishakhapatnam – 533 024. ... Applicants

-Vs-

Joseph Christian Krishnaraj (Deceased)
S/o. Late. Narahimhulu Naidu,
Old No.2, New No.4,
North Trust Cross Street,
Mandavelipakkam,
Chennai – 600 028.

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   Chennai – 600 028.

... Respondents

Application praying that this Hon'ble Court be pleased to condone the delay of 91 days in filing the restoration application to restore A.No. 1390 of 2021 which was dismissed for non prosecution by order dated 30/7/2021 on the file of this Hon'ble Court.

This Original Petition alongwith this application coming on this day before this court for hearing in the presence of Mr.S.Sivaraman, Advocate for the petitioners in O.P.No. 269 of 2004 and for the respondents in A.No. 4976 of 2021 and Mr.S.Ramesh Kumar, Advocate for the applicants in A.No.4976 of 2021 and upon reading the petition filed in O.P.No. 269 of 2004 and the Judges Summons and the affidavit of S.Ramesh Kumar filed in A.No. 4976 of 2021, and this Court finds that on 30.07.2021 was a pandemic period and there were difficulties for the parties and the counsel to appear before the Court, **it is ordered as follows:-**

That the order passed by this Court dated 30.07.2021 in A.No. 1390 of 2021 be and is hereby set aside and the same be and is hereby restored.

2. That the Registry herein be and is hereby directed to list the application in A.No.1390 of 2021 in O.P.No. 269 of 2004 on 02.03.2022 for report and no further time shall be granted.

3. That the learned counsel for the respondents herein be and is hereby directed to file the counter if any,

WITNESS THE HON'BLE MR. JUSTICE MUNISHWAR NATH BHANDARI, ACTING CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 09TH DAY OF FEBRUARY 2022.

Sd/-
ASSISTANT REGISTRAR (O.S-II)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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ED

23.02.2022

O.P. No. 269 of 2004
and
A.No. 4976 of 2021

ORDER

DATED: 09/02/2022

THE HON'BLE MR. JUSTICE
P. VELMURUGAN

FOR APPROVAL: 24.02.2022

APPROVED ON : 24.02.2022

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... Respondents

Application praying that this Hon'ble Court be pleased to condone the delay of 91 days in filing the restoration application to restore A.No. 1390 of 2021 which was dismissed for non prosecution by order dated 30/7/2021 on the file of this Hon'ble Court.

This Original Petition along with this Application coming on this day before this court for hearing, **The Court made the following order:-**

The applicants herein filed an application in A.No.1390 of 2021 to revoke the letters of administration and the said application was dismissed for default on 30.07.2021. Therefore, the applicants have filed the present application in A.No.4976 of 2021 to restore A.No.1390 of 2021.

2. The learned counsel for the applicants would submit that due to Covid pandemic, they could not present before the Court and they have filed the personal affidavit stating the reasons.

3.The learned counsel for the respondents would submit that in order to protract the suit, they filed the application belatedly and even in the affidavit, they have not properly explained the reasons as to why they have not appeared before the Court on 30.07.2021 when the application in A.No.1390 of 2021 was posted and hence, the present application is liable to be rejected.

4. Admittedly, the respondents herein filed O.P.No.269 of 2004 for letters of administration and subsequently the applicants herein have filed the application in A.No.1390 of 2021 to revoke the letters of administration and it was dismissed for default on 30.07.2021. Admittedly, on 30.07.2021 was a pandemic period and there were difficulties for the parties and the counsel to appear before the Court.

5. Hence, considering the facts and circumstances, this Court finds the reason stated in the accompanying affidavit is satisfied.

6. Therefore, the order passed by this Court dated 30.07.2021 in A.No.1390 of 2021 is set aside and A.No.1390 of 2021 is restored.

7. Registry is directed to list the application in A.No.1390 of 2021 in O.P.No.269 of 2004 on 02.03.2022 for report and no further time will be granted.

8. The learned Counsel for the respondents is directed to file the counter if any.

Sd./- V.P.J.,
09.02.2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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